S.B. Cr. Misc. Petition NO.363/2007

Govind Ram & Ors.
Vs.
State of Rajasthan & Ors.

Date of Order :: 11-07-2007

HON'BLE MR. JUSTICE H.R.PANWAR

Shri Deepak Choudhary, for the petitioners.
Shri Ashok Upadhyay, PP.

By the instant petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 03.2.2007 passed by Judicial Magistrate, Osian (for short, 'the trial court') whereby the trial court took the cognizance for the offence under Section 376IPC and issued the process against the petitioners.

Heard counsel for the petitioners. Perused the impugned order and also the statement of witnesses including the statement of prosecutrix and her husband recorded by the trial court under Sections 200 and 202 Cr.P.C.

From the statement of witnesses, more particularly, the prosecutrix, there were very serious allegations against the present petitioners that they subjected the prosecutrix to sexual assault by raping her on various occasions while her husband was posted at Tripura in BSF on border.

Counsel for the petitioners submits that subsequently the husband of the prosecutrix filed a divorce petition and wanted to take divorce from his wife, therefore the order taking cognizance is bad in the eye of law.

Statements of the prosecutrix and other witnesses were recorded by the police under Section 161 Cr.P.C., as also by the trial court under Sections 200 and 202 cr.P.C. prima facie makes out a case and, therefore, in my view, it is not a fit case warranting interference in the impugned order of taking cognizance. In this view of the matter, it cannot be said that impugned order taking cognizance would result in serious miscarriage of justice or abuse of the process of the Court.

The petition has no force and the same is hereby dismissed.

[H.R.PANWAR],J.

Praveen